

Bureau of Land Management

Central Montana Resource Advisory Council

REPORT TO THE SECRETARY ON THE UPPER MISSOURI RIVER AND BREAKS AREA

December 1999

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/Signed/

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12 / 28 / 99

Date

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12 / 28 / 99

Date

EXPANDED UMNWSR
MANAGEMENT PRESCRIPTIONS

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I. INTRODUCTION

Secretary of the Interior Bruce Babbitt asked us, the Central Montana Resource Advisory Council (RAC), to make some recommendations regarding the future of the Missouri River and Missouri River Breaks. Our report follows.

II. BACKGROUND

Montana's Missouri River flows through the rugged, remote Missouri River Breaks in the central part of the state.

For 149 miles downstream beginning at Fort Benton, Montana, the Missouri River is a designated component of the National Wild and Scenic River System. This designated section is called the Upper Missouri National Wild and Scenic River and includes about 90,000 acres of adjacent federal land. On the upper-most sections of the river, the designated corridor runs from bank to bank, but beginning at Coal Banks Landing, about 42 miles downstream from Fort Benton, the corridor widens to cover the federal land from rim to rim of the valley. The rim to rim distance varies with the topography from about a quarter mile up to about two miles in some places in order to cover the area that can be seen from the river. When the Missouri received this special designation in 1976, Congress called it an irreplaceable legacy of the historic American West that should be preserved for present and future generations. This longest free-flowing stretch of the Mighty Missouri is the only Wild and Scenic River in the national system designated with a multiple-use mandate. A management plan for the river was completed in 1978 and updated in 1993. The plan's goal is to improve existing resources and increase public awareness of the many unique values and opportunities along the river. The public contributed significantly to every phase of the plan's development through both written and oral comments.

As the name implies, the Breaks are an area of rough, broken landscape that form the upland area of the River especially along the eastern section of the Wild and Scenic Missouri. "Breaks" describes the landscape of this area--there is no political or jurisdictional boundary around it. The Breaks are sparsely populated. The countryside is dotted with abandoned homesteads and other historic features that attest to nature's dominion over humans. The few that make their homes here now are rugged individuals who have learned to deal with the harsh environs of the Breaks. Many of them depend on the area's resources to support farming and ranching operations. The Breaks include six wilderness study areas, portions of the Lewis and Clark National Historic Trail and the Nez Perce National Historic Trail, the Missouri Breaks Back Country Byway, the Cow Creek Area of Critical Environmental Concern, and approximately 257,000 acres of adjacent public lands. Due to the ample and varied habitats found here, the Breaks are home to a wide variety of wildlife including some species of special concern. (See attached briefing paper.)

The Missouri River and Missouri Breaks conjure images of the earliest days of the American West. Thanks to careful stewardship of both private and public land here, the character of the region has changed little since Lewis and Clark explored it some 200 years ago.

III. PUBLIC AND RAC INVOLVEMENT

The Missouri River and Breaks area recently have been the subject of national attention and local concern. The approaching Lewis and Clark Bicentennial (2003-2006) is already attracting more and more people to the area. Following a May 1999 visit to the river, Interior Secretary Bruce Babbitt asked Montana BLM to gather public input concerning BLM plans for the Bicentennial and some type of designation for the Missouri River and Breaks. The series of eleven meetings generated a great deal of interest and attracted about 250 citizens, more than 100 written comments, and extensive media coverage. The meetings also sparked the formation of several local groups interested in issues related to the Missouri, a subject that continues to be of major interest to many existing organizations and individuals.

At our August 10, 1999, meeting, the Secretary asked us, the Central Montana Resource Advisory Council (RAC), to consider the issues affecting the area and provide recommendations for the area's future management by December 31, 1999. Since then, we have met four times and have actively solicited public input regarding management options for the Missouri Breaks area. In addition to the more than 400 written and oral comments we received, we have also reviewed a variety of information sources such as existing management plans.

Although we have not completely covered all the issues that we feel should be addressed or considered, we have reached agreement on many of them.

IV. MOTIONS APPROVED WITH FULL CONSENSUS

To adhere to the December 31 deadline, we submit the following recommendations to you with full consensus. These motions apply to the area the RAC termed Expanded Upper Missouri National Wild and Scenic River (Expanded UMNWSR).

☐ **MANAGING AGENCY**

"The BLM will remain the managing agency."

☐ **TENTATIVE ADMINISTRATIVE UNIT**

"The RAC has reached consensus and proposes management prescriptions for an Expanded UMNWSR corridor to include six WSAs, one ACEC and miscellaneous lands involved in blocking up this area. This expands the existing corridor by about 25%. All of our resolutions apply to this area. We will continue to discuss management of adjacent lands."

Throughout the December meeting there was discussion concerning the area in question. It was not until December 8 in the meeting that the RAC decided upon a tentative administrative unit. It was at that time they decided to define right up front something they call the "Expanded Upper Missouri National Wild and Scenic River (Expanded UMNWSR)" and to use it throughout the document. Expanded UMNWSR is defined as "includes at this time the river corridor and adjacent WSAs and ACEC until or unless a further designation or boundary change is established."

☐ **HUNTING / FISHING**

"Hunting and fishing shall be recognized as historic and traditional uses in the Expanded UMNWSR. These legitimate recreational activities (in compliance with state and federal law) shall be included in current and future management plans."

☐ **CONSERVATION EASEMENTS**

"The Central Montana RAC requests the Secretary of the Interior to contact the Montana Congressional Delegation to ask for their assistance in seeking the appropriation of funds for the purchase of conservation easements from willing sellers on private lands along the Missouri River in Montana."

These funds would be primarily designated for the Expanded UMNWSR.

Conservation easement purchases help continue the traditional uses of the lands by agriculture while respecting the public values. Conservation easement purchases recognize the significant role that private ranching and farming families have provided over the years in the maintenance and stewardship of private lands.

Private lands provide significant open space and wildlife values for the river. Also, many historical

sites along the Missouri river are on private lands and would receive protection through private land conservation measures."

There are *33,341.63 acres of private land within the river corridor (*compiled from the 1993 UMNWSR Plan). Private land is used for crops, livestock production, wildlife habitat, and outdoor recreation opportunities. Taxes generated from private lands are essential to the tax base of the affected counties. Any government action affecting commodity production and uses of private lands would jeopardize the economic viability of private landowners and local communities.

The Central Montana RAC recommends:

- Recognition and continuation of existing land ownership and uses. Federal condemnation is not an option.
- Funding from private and public entities to be used with willing private land owners within the river corridor to discourage subdivisions and commercial developments.
- No new rules or regulations which may directly or indirectly force private land owners to sell their land.
- Continuation and enhancement of proper management of private and public lands through partnerships between organizations and private landowners.

☐ **GRAZING**

"Livestock grazing will continue at current levels within the confines of Standards and Guidelines."

*The river corridor contains all or portions of 55 grazing allotments. These allotments total 229,423 acres of public land and provide 26,682 animal unit months of grazing (*compiled from the 1993 UMNWSR Plan.)

The Central Montana RAC recommends:

- The need to educate the public regarding livestock grazing.
- The need to educate ranchers regarding proper management of livestock along the corridor.
- The recognition that the BLM already has the tools (RMPs, AMPs, Standards and Guidelines) to properly manage cattle in this area.
- Additional funding to implement these tools, i.e. additional watering facilities away from the river, different grazing schemes, etc.
- Developing partnerships between BLM and other private organizations.

☐ **COTTONWOOD RESTORATION - RIPARIAN**

"The riparian areas (land directly influenced by permanent water) along the Upper Missouri National Wild and Scenic River will progress towards proper functioning condition as the result of proper management of livestock, hydrology, erosion, deposition, vegetation, wildlife, people and adequate funding."

Riparian areas are defined as land directly influenced by additional water. Riparian condition of the river

corridor is the product or result of soils, geology, water, vegetation, people, and adequate funding. The RAC is concerned that BLM management strategies to improve the corridor are not being implemented according to existing RMPs.

The Central Montana RAC recommends:

- The BLM request funding and use it to implement grazing strategies and range improvements needed to entice livestock from the corridor to the uplands during the hot season.
- Start dialog with the current owners of upstream storage facilities regarding water release and storage.
- Use scientific data to determine the potential of cottonwood regeneration.
- Manage livestock grazing in accordance with the current standards and guidelines.
- Manage people in riparian areas to minimize their impact to riparian areas.
- Control wildlife to improve the cottonwood regeneration.
- Establish realistic goals for riparian areas and implement monitoring programs to measure progress toward these goals.

☐ **EMERGENCY SERVICES / COUNTY ROADS**

"The BLM will seek funding to assist rural emergency services and for additional maintenance of existing county roads within the Expanded UMNWSR for those counties and rural communities which are impacted by the influx of visitors due to the Lewis and Clark Bicentennial."

County roads and volunteer emergency services will be over worked with the increase of visitors due to the Lewis and Clark Bicentennial on the Wild and Scenic River corridor and the Missouri Breaks Area.

The Central Montana RAC recommends:

- The BLM will seek funding to assist rural emergency services and for additional maintenance of existing county roads and rural communities along the UMNWSR.
- Possible funding sources include the Lewis and Clark Bicentennial coordinator - Montana State Office (Kim Prill); State and federal agencies: and, user fees.
- Funds for roads will be used for additional maintenance and not improvements to existing county roads.
- Funds for emergency services would be channeled through county government to maintain training, maintenance and supplies for volunteer emergency services.

☐ **MILITARY FLIGHTS**

"Incorporate our deep concern of the military flights especially during the floating season over the Expanded UMNWSR within the report to the Secretary."

☐ **AIRCRAFT FLYOVERS**

"Ban commercial recreational overflights over the Upper Missouri National Wild and Scenic River Corridor."

☐ **JET SKIS**

"Personal watercraft (such as jet skis) shall be prohibited from the entire 149-mile stretch of the UMNWSR from the bridge at Fort Benton to the bridge at Kipp Recreation Area the entire year."

☐ **FORT BENTON CITY LIMITS**

"None of the management objectives recommended by this advisory council apply to that portion of the Upper Missouri National Wild and Scenic River located within the city limits of Fort Benton."

"The Central Montana RAC includes Resolution #806, a resolution passed by the Fort Benton City Council on December 20, 1999, entitled "A resolution Requesting Boundary Clarification of the Wild and Scenic River as it pertains to the City of Fort Benton," within this report and for appropriate consideration by the Secretary of the Interior and the BLM."

RESOLUTION # 806

**A RESOLUTION REQUESTING BOUNDARY CLARIFICATION OF THE
WILD AND SCENIC RIVER AS IT PERTAINS TO THE CITY OF FORT BENTON**

WHEREAS, the Upper Missouri River was designated a Wild and Scenic River in 1976; and

WHEREAS, the exact location of the beginning point of the Wild and Scenic River System is unclear to the Fort Benton City Council; and

WHEREAS, because of past and present commercial, residential, and recreational usage of the Missouri River within Fort Benton, the City Council of the City of Fort Benton wishes to allow for continued development of the river front within Fort Benton in a positive manner, including recreational use, historical restoration (such as the rebuilding of the Fort Benton American Fur Company trading post), and continued improvements to the levee (re-construction of the existing boat launch and construction of a canoe launch);

NOW THEREFORE, be it resolved by the City Council of the City of Fort Benton, County of Chouteau, State of Montana, that:

1. The Bureau of Land Management and the Secretary of the Interior clarify the definitive boundaries of the Wild and Scenic River System, either including or excluding the City of Fort Benton by historically documented maps or legal description.
2. Any recommendation by the Bureau of Land Management concerning new directives under current designation or any new designation exclude the section of the Missouri River within the Fort Benton city limits.
3. If in fact it is proven that the Missouri River within the city limits of Fort Benton is included within the boundaries of the Wild and Scenic River, the Bureau of Land Management seek Congressional legislation to remove the City limits of Fort Benton from the official designation of the Wild and Scenic River System.

BY ROLL CALL VOTE:

6 AYE 0 NAY _____ ABSENT

DONE AND DATED this 20th day of December 1999.

Paul D. Morris MAYOR

ATTEST:

May A. Hensel Clerk/Treasurer

☐ **MOTORIZED WATERCRAFT**

"Motorized watercraft on the wild and scenic portions of the UMNWSR will be restricted as follows:

- (1) All motorized use will be "no-wake" from Saturday before Memorial Day to the Sunday after Labor Day. (Current Management Policy)*
- (2) Watercraft used for river and land management purposes or for emergencies are exempt from "no-wake" restrictions but must be operated in a safe manner.*
- (3) BLM will develop, post at launch points and enforce rules on the proper way for motorized craft to approach and pass other motorized and non-motorized craft."*

☐ **ACCESS TO THE RIVER**

"At this time, the BLM will confine river access site improvements to those primary launch sites utilized prior to the year 2000. Those historic sites are specifically identified as Fort Benton, Wood Bottom, Coal Banks Landing, Judith Landing and Kipp Recreation Area. No new launch sites will be developed and only those mentioned above will be promoted or advertised to the public."

☐ **RIVER OUTFITTERS**

"RAC proposes a two year moratorium on licensed river outfitters with no implied rights."

☐ **WEEDS**

"The BLM will give immediate high priority in achieving the funding necessary to coordinate and cooperate with other governmental agencies, grazing districts, weed control districts, permittees, and adjacent land owners to control the existence and spread of noxious weeds. Control of weeds should be given high priority using biological, animal, manual, and where appropriate, EPA approved chemical control. Informing the public about noxious weeds and how to identify and avoid their spread should also be incorporated in management of the public lands."

The Central Montana RAC recommends:

- Aggressively treat, control and otherwise manage noxious weeds that impact the well functioning watershed capability of all sites.
- Funding to go to governmental subdivisions through a contract
- Allow OHV use for weed control purposes in all areas where noxious weeds are prevalent
- Use only EPA approved chemicals near water ways
- Use biological control
- Study grazing controls

☐ **HISTORICAL VALUES**

"The BLM will seek adequate funding to carry on liaison with the Lewis and Clark Trail Heritage Foundation, the Nez Perce Trail Association, the River and Plains Society, the Blaine, Phillips, Hill,

Judith Basin, and Fergus County Historical Societies, and other interested entities, and the Native Americans to identify and interpret the historical significance of sites and trails within the Expanded UMNWSR. Such liaisons will emphasize the importance of local communities and reservations in educating the public about these sites and interpret them appropriately."

Communities are emphasized; not the specific sites.

❑ TRANSPORTATION

"Support the BLM in their watershed planning process to implement their transportation plans."

❑ FUNDING

"The Central Montana RAC requests the Secretary of Interior, the Montana State Director, the Congressional Delegation, and the Governor to cooperatively seek \$500,000 for each of the next two years to be earmarked for UMNWSR river studies and mobilization of management policies."

- ▶ *Seek help from University personnel and graduate students.*
- ▶ *Develop scientific sociology surveys.*
- ▶ *Adequate staffing to conduct surveys and process data.*
- ▶ *Program to begin in 2000 with summer of 2000 as first year target.*
- ▶ *Work cooperatively and share information with the Montana Fish, Wildlife, and Parks.*
- ▶ *Consider a fee structure.*
- ▶ *Break down the funding for studies, data collection, projects, etc. as initially submitted by the BLM."*

❑ PEOPLE MANAGEMENT

"Public lands in the expanded UMNWSR which includes at this time the river corridor and adjacent WSAs and ACECs until or unless a further designation or boundary change is established, are widely recognized as being more wild and at least as scenic as the UMNWSR. It is this wildness enhanced by the beauty of the area that ranchers, conservationists, cultural and historical enthusiasts, outdoor sportsmen and sportswomen, and, the residents of local communities so value. Words most commonly used to describe this wildness and the experience it offers include: solitude, quietness, discovery, rugged beauty, natural beauty, pristine, as well as many others."

Overuse of this valuable resource by visitors can have an adverse impact on the areas outstanding wild character. Such overuse would result in the loss of the very qualities and experiences that people seek."

The RAC therefore requests Interior Secretary Babbitt and the BLM to create a policy that preserves this wildness and the other qualities which make the Wild Missouri such a special place. Upon creating such a policy the RAC requests that the Secretary and the BLM implement a policy which addresses, but is not limited to the following issues:

1. *Numbers and distribution of visitors: The RAC recognizes that not only will the Lewis and Clark Bicentennial have a major impact on the number of visitors, but that there is an increasing demand by the public to use their public lands. Visitor use limits may have to be imposed to ensure that the intrinsic qualities of the area are preserved.*
 - ▶ *What types of campsites, if any, should be established and at what locations.*
 - ▶ *If additional sanitation facilities are needed, they should be located and constructed in the least intrusive manner possible.*
 - ▶ *Visitor access to the Upper Missouri Breaks must have as its priority the protection of the resource first.*
2. *Types and distribution of trails: Cattle and game trails are part of the natural setting and evolve and even disappear as the natural setting evolves. Trails designed basically for human use are usually seen as much more intrusive and demand constant maintenance, especially in a badlands setting. The integrity of the resource must be given priority in the planning and construction of any trails.*
3. *Public responsibility: The Secretary and the BLM should implement a policy to inform the public that a visit to the area involves risks and demands skills. Visitors will have to assume responsibility for their actions and their own safety. The RAC feels that many of our attempts to make areas safe for visitors and tourists alters and degrades the very qualities people seek from these areas.*
4. *The BLM shall conduct surveys and compile river use data in a timely and ongoing manner. Results will be utilized cooperatively by the BLM and the RAC's subgroup to formulate river management and resource recommendations to the Central Montana RAC. When applicable, recommendations by the RAC subgroup must comply with those specific parameters directed by the RAC in its December 1999, recommendations to the Secretary of the Interior."*

☐ **DESIGNATION**

"The RAC recommends that if a special designation is warranted, the Secretary, the Montana Congressional delegation and the Governor's office will work together to draft legislation incorporating the RAC's recommendations."

☐ **NEEDS ASSESSMENT**

"Request BLM to prepare a five-year needs assessment and identify ways in which those needs might be met through the appropriations process and other sources."

☐ **PILT PAYMENTS**

"The Central Montana Resource Advisory Council recognizes that both the legislative and executive branches of the federal government understood the importance of being good neighbors when the Payments in Lieu of Taxes (PILT) Act was passed and signed into law in 1976. The payments provided by the Act helped offset property taxes not paid on federal lands.

Unfortunately, the original PILT payment schedule was not indexed against inflation. After nearly two

decades of level payments, the Congress passed and President Clinton signed Public Law 103-397 designated to rectify this error and roughly double PILT payments over five years.

However, although the law authorized increases in PILT payments, neither this administration nor the Congress has followed through with any substantial increases in PILT appropriations. In fact, fiscal year 1999 payments were a mere 41 percent of the authorized level.

Therefore, it is resolved that the Central Montana Resource Advisory Council implores the Secretary of the Interior to use all the power and influence of his office to encourage the President, the Office of Management and Budget, and the Congress of the United States to live up to the commitments made and implied by Public Law 103-397 by permanently funding PILT at its authorized level."

❑ OHV

"OHV use be limited within the Expanded UMNWSR to designated roads and trails with the exceptions of administrative uses and land management purposes."

❑ SUBDIVISIONS

"The Central Montana Resource Advisory Council advises the BLM to discourage subdivisions and commercial development along the expanded UMNWSR, to this end, we have the following recommendations:

- ▶ *Request the Secretary of the Interior to contact the Montana Congressional Delegation to ask for their assistance in securing appropriated funds for the purchase of conservation easements on private lands from willing sellers, with these funds being primarily designated for the expanded UMNWSR.*
- ▶ *Conservation easement purchases help continue the traditional uses of the lands by agriculture while respecting the public values. Conservation easement purchases recognize the significant role that private ranching and farming families have provided over the years in the maintenance and stewardship of private lands.*
- ▶ *Private lands provide significant open space and wildlife values for the river. Also, many historical sites along the Missouri river are on private lands and would receive protection through private land conservation measures.*
- ▶ *In addition to conservation easements, promote other alternatives for private landowners so they are not forced to subdivide or sell to developers. An example would be estate and inheritance tax relief and income tax relief. Another example is to encourage adjacent counties to enact zoning ordinances preventing subdivision."*

❑ STATE LAND IN-HOLDINGS

"DNRC and BLM engage in a land exchange program within the Upper Missouri National Wild and Scenic corridor to divest the state of it's interest in the corridor."

V. MOTIONS WITHOUT FULL CONSENSUS

We are still discussing some complex issues surrounding the Missouri River and Breaks. Although we have not reached full consensus on them, we felt that we needed to submit to you the recommendations we discussed and the motions that were not passed. Our discussion items and different viewpoints are also included for your review and consideration.

☐ RIGHTS OF WAY

"The BLM will prepare a comprehensive expanded UMNWSR study analyzing any new utilities (pipelines, transmission lines, and so on) or requests for rights of way. No new ROWs should be granted until this overall analysis has been completed."

Rationale: Information is lacking about the location and impacts of existing utilities so decisions about whether further development of utilities is needed or where it should be located should be postponed to prevent unwanted or unintended development." Motion failed.

Discussion:

- Access to private land was a concern.
- The oil and gas issue needs to be solved first before this one is tackled.

☐ OIL AND GAS / TIMBER / MINING

"The RAC requests the BLM to discontinue further oil and gas leasing and timber sales, and to withdraw from mining the land within the Expanded UMNWSR. Concerning the area outside the expanded boundary, the land will be managed in accordance with multiple use to produce timber, water, forage, energy and minerals. These uses will be managed to maintain landscapes for watershed, recreation, aesthetic values, wilderness, fish, wildlife and species diversity. Properly implemented, all multiple uses should sustain production and avoid environmental and economic deterioration of the area." Motion failed.

Discussion:

- There is only one current mineral lease in the area identified (Cow Creek ACEC). There is pre-existing acreage in the corridor and in the WSA that is leased. Discussion.
- There is potential for a rush on leasing between now and when this goes into effect. Throughout that area there is a potential for permitted drilling every 640 acres (exceptions exist).
- Motion failed due to the moratorium issue. It was suggested that a moratorium be set in place in the meantime, until the issues on the Missouri Breaks Area boundaries have been resolved.

The motion to discontinue further oil and gas leasing, timber sales, and withdraw the land from mining would have reached consensus on land within the tentative administrative unit. All members of the RAC recognized that these activities are incompatible with the public's desire to protect and preserve this national treasure so that it retains as much of its wilderness character as possible for the enjoyment and appreciation of future generations.

However, the second part of the motion could be viewed as a mandate for the BLM to encourage the leasing and permitting of extractive activities on the remaining lands which Secretary Babbitt has asked the RAC to consider for protection. To resolve the impasse, a moratorium was proposed, but failed, which would have allowed time to inventory and assess the impacts of development before taking actions which could have unwanted and unintended consequences on areas outside of the tentative administrative unit.

As a point of information, extractive activities are already prohibited on the six wilderness study areas so only the ACEC would be protected and even within its boundary, gas leases have already been issued.

❑ HUNTING OUTFITTING

"Outfitting on public land shall only occur on public lands that also have equal public access." (This motion only applies to those lands within the Expanded UMNWSR). Motion failed.

Discussion:

- Equal access was explained. There was a question as to who would interpret 'equal.'
- Mr. Billingsley explained the new rules and regulations and processes affecting outfitting and feels the issues identified have already been addressed outside the RAC and the BLM by the State.
- Mr. Meyer explained that there is a problem of private land owners charging hunters to access public land through their private land. There are incidents where one person was able to block up large parcels of land to prevent others from hunting there.
- A new outfitter must submit a management plan with their application and if it is not compatible with established management plans, that application will be denied.
- The BLM does not have clear authority to deny a permit to a hunting outfitter if they deny access to federal land.

Comments Supporting Original Motion:

Denial of equal access for the public, to public land, has become one of the most contentious issues in recent years. Approval of this motion would be a major step in providing fair and equitable access for all citizens who share in the ownership of these public lands.

Leasing or purchase of private land, by outfitters, that provides the only reasonable access to large amounts of public land has, in recent years, become commonplace in Montana. This practice, which virtually denies access to the general public, has provided commercial outfitting with vast amounts of public resource (land and wildlife) for the exclusive use of their paying customers. To this date, laws have proven inadequate to control those outfitters who have capitalized on the mis-use of the "personal property rights movement" to provide their fee paying customers the only access to many of our public lands. The Board of Outfitters, many of whom are outfitters themselves, are supposed to police their industry. However, because of past flagrant violations, allowed or ignored by this board, they have virtually no credibility with the general public. The BLM must be given authority to deny outfitting permits on BLM land if equal public access does not exist.

Opponents argue that "equal" cannot be defined. This argument once again seems to lend

credence to the public's distrust of the fox guarding the hen house. Webster defines equal as "Equivalent or the same". Logically applied, in the outfitting scenario, it would mean that if an outfitter could drive to the boundary of a specific parcel of public land with his clients, then the public should be able to do so too. If the outfitter's clients must walk for a mile to reach that same land, then the public should also be required to walk a mile. If the public has no access, then commercial outfitting clients should not have access.

This is not an infringement on private property rights. Any individual who owns or leases private property should have the prerogative to deny access to anyone. However, if he does so, then he in turn should not be allowed to capitalize on those "blocked" public resources for his own personal profit. If access equality does not exist for a specific parcel of public land, then leasing for commercial outfitting use of those public resources should be denied.

Comments Opposing Original Motion:

While I commend the proponents for their commitment to ensuring that public land is enjoyed by the self-guided public, I urge caution where the underlying intent is to hold private property rights hostage to public enjoyment of public lands. I believe the solution posed by the proponents is unnecessary, as the 1999 Montana Legislature passed two bills that could provide much of the relief proponents seek.

- SB 171 allows the Department of Fish, Wildlife and Parks (FWP) to hire a public lands access coordinator whose job it will be to look into complaints of inappropriate public land closure. Where private landowners have made land management decisions that result in denial of public access to public land across private land, the coordinator will attempt to negotiate accommodations. FWP intends to have the position filled by February 2000.
- SB 334 directly addresses the issues of outfitters who wish to expand their client base, a move which often triggers an expansion in private land use. Such expansion would face a strict review by a new board of outfitters, Fish, Wildlife and Parks, and the public. Even amendments to existing operations plans that simply reflect an expansion of land use must go before the board for review and approval.
- SB 334 also revised the makeup of the board of outfitters to include two sportsmen and one public member. The other four members are outfitters.

I believe that further attempting to define what constitutes "equal" public access is an exercise in futility. The BLM has on file the laws referenced above for your review and consideration.

☐ **MOTORIZED WATERCRAFT**

Original motion: *"Motorized watercraft on the wild and scenic portions of the UMNWSR shall be restricted as follows:*

1. *Commercial use will be "no-wake" year round.*
2. *All motorized use will be "no-wake from Saturday before Memorial Day to the Sunday after Labor Day. (As per regulations currently in effect)*
3. *Watercraft used for river and land management purposes or for emergencies are exempt from*

"no-wake" restrictions but must be operated in a safe manner.

4. *BLM will develop, post at launch points and enforce rules on the proper way for motorized craft to approach and pass other motorized and non-motorized craft."* Motion failed.

Note: This motion only pertains to the "Wild" and the "Scenic" sections of the UMNWSR. The "recreation" portions (The 52 mile section below Fort Benton and the 8 mile section at Judith Landing) do not have any wake restrictions for the entire year.

The original motion did not receive consensus; however, item 1 was removed and items 2, 3, and 4 were re-packaged and consensus achieved as a separate motion (see page 6).

Comments Supporting Item #1 of Original Motion:

A substantial amount of comments actually preferred a total ban on all motorized use year round. The basis of their comments was to protect the solitude of the river corridor from noise pollution associated with motorized watercraft. Of special concern was upstream powerboat use.

Currently there is only one registered commercial river outfitter who just recently began using a jet boat to go upstream in the off-season. He also conducts tours downstream in the summer time. Commercial outfitters going downstream under power during the summer (no-wake as currently allowed) can complete the normal three day float trips (from either Coal Banks to Judith Landing or from Judith Landing to Kipp park) in only one day. This shortened experience eliminates the need for overnight camping. It also counters the argument that the elderly or handicapped, who cannot camp, would be discriminated against. Because river outfitters must abide by current regulations and only go down stream during the summer months, it seems unwarranted that they must go upstream under full wake in the off season to satisfy their clients.

Restricting commercial use to "no-wake" year round helps preserve the UMNWSR as a destination to experience solitude and wildness, as nearly as possible in today's environment - much like Lewis & Clark experienced it. The vast majority of visitors come to this special place to share in that same experience. The supporters of the original motion understand that commercial use does provide a service to some members of our society. However, that service should not be allowed to expand and degrade the qualities of the resource to the detriment of the majority of the general public. River outfitting must be compatible with the public's river use, not contrary to it. To compromise the solitude of the river corridor for the sake of commercialization and the use of a public resource for one outfitter's personal gain, favors exploitation - not good stewardship.

At one time, there was also only one motorized outfitter in the Hell's Canyon of the Snake River in Idaho that powered his way upstream. Today the Hell's Canyon is recognized as the commercial jet boat capitol of the world. Supporters of the original motion are terribly concerned that this is just the beginning of a mass commercialization movement on the UMNWSR in what is now to be considered the off season (after Labor Day to Memorial Day). Those of us that are intimately familiar with the river, know that September and October are often the most desirable times to float. The door has now been opened for commercial exploitation during those times by a fleet of jet boats roaring up and down to put money in the proprietors pocket. We must not allow this new venture to become

entrenched, because if it does, the UMNWSR will surely suffer the degradation that has been the norm for other rivers in the lower 48 states. The time to stop this exploitation is now! We must not allow this special place to become the "Hell's Canyon" of Montana.

The period after Labor Day, on the UMNWSR, has historically been used by central Montana residents to pursue their traditional sports of hunting and fishing. Using upstream motorized watercraft has been an accepted part of that tradition. This use has been minimal but is deeply entrenched in the lifestyles and recreation of these non-commercial local users. Accepting this historical private use but denying a new commercial venture of upstream motorized use is not hypocritical. It follows in the traditional uses of the river by local residents even prior to the "Wild & Scenic" designation. Being limited to local users also means it is not subject to expansion. In contrast, upstream jet boat use by commercial interests is a new endeavor that could be greatly expanded on. The arguments to provide services for the elderly and handicapped do not hold true as these people can conveniently, comfortably and within one day, view the river going down stream. Limiting commercial use to "no wake" year around recognizes and allows these services in today's society, but it does so, in a way that still preserves the quality and solitude of the UMNWSR for this and future generations.

Comments Opposing #1 of the Original Motion:

A good portion of the comments felt that the BLM already has the tools in place to limit outfitter use.

While those in support of lifting the "no-wake" restriction would like use during the summer, a reasonable compromise that was already used in current management was agreed to so that the private person could continue to have the same enjoyable experiences on the river that they have had since the Wild and Scenic Designation was put in place.

Restricting "commercial use" to "no-wake" was part of the compromise but concerns still exist on how the elderly or handicap will be able to see the river and it's wonders. Currently they could have guided trips during the seasons where wakes would be allowed - now this is not possible.

Reference is made to the Lewis and Clark experience and one has to remember that Lewis and Clark came up the river and had to cause a wake at that time. Why exclude some people from the experience when they were willing to share the use through the original management plan?

VI. ISSUES NOT COVERED

With adhering to the tight schedule of submitting a report to the Secretary by December 31, 1999, we were unable to completely address all issue and management recommendations that need to be considered for the Missouri Breaks Area. The following are issues that we had brainstormed and were unable to address but we feel they must be considered in your final decision.

- ✍ Law Enforcement/River Management
- ✍ Private Property, Mixed Land Ownership combined
- ✍ Boundary Issue
- ✍ Wildlife and Threatened and Endangered Species
- ✍ Aesthetic Values
- ✍ Wilderness Study Areas
- ✍ Federal Land Holdings Increase

VII. CONCLUSIONS

We realize that we did not make complete recommendations on all the issues that need to be addressed and considered in the Missouri Breaks Area. We would like you to consider all the aspects involved in the area before making a final decision. We have put a great deal of effort, time and energy into these recommendations and would like your full review and consideration before making a decision. If you do not agree or cannot support our recommendations, we would appreciate a response as to why they can not be considered or implemented.

Thank you for your sincere consideration and efforts in soliciting input from the local area and interested parties before making a decision. We have included the meeting notes from all of our meetings concerning this issue for your reference (Please see the Appendix). If you have any questions please contact us.